

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

ERIK MERCADO,

Defendant.

Case No. CR21-081-RSL
Case No. CR14-082-RSL

ORDER GRANTING
MOTION TO CONTINUE
TRIAL AND SUPERVISED
RELEASE HEARING

This matter comes before the Court on defendant's "Stipulated Motion to Continue Trial & Supervised Release Hearing" (CR21-081-RSL ("CR21") Dkt. # 15; CR14-082-RSL ("CR14") Dkt. # 214).¹ Having considered the facts set forth in the motion, and defendant's knowing and voluntary waiver (CR21 Dkt. # 16), the Court finds as follows:

1. In Case No. CR14-082-RSL, defendant faces 13 allegations that he committed violations of his supervised release, including an allegation that he committed the crime of possessing ammunition by a person under supervision. See CR14 Dkts. # 199, # 202. The supervised release violations are scheduled for an evidentiary hearing on May 26, 2022. Id. at

¹ The Court notes defendant's footnote 1 providing Webster's definition of "stipulated," and directs defendant to LCR 1(c). LCR 1(c) defines a stipulated motion as "a stipulation (agreement) between or among the parties presented to the court with a proposed order." Local Rules W.D. Wash. LCR 1(c)(7); see also Local Rules W.D. Wash. CrR 1(a) (stating that LCR 1(c) applies to criminal matters).

1 Dkt. # 213. Defendant moves the Court to reschedule the evidentiary hearing to November 3,
2 2022 at 11:00 a.m.

3 2. In Case No. CR21-081-RSL, the indictment charges defendant with one count of
4 felon in possession of ammunition, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2). See CR21
5 Dkt. # 3. Defendant's trial is scheduled for July 11, 2022. Id. at Dkt. # 12. Defendant moves
6 the Court to reschedule the trial to November 7, 2022.

7 3. The Court adopts the facts set forth in the motion: in particular, that given
8 competing professional obligations, defense counsel would be unable to prepare for the
9 evidentiary hearing and trial in these parallel matters by the dates currently scheduled and
10 requires additional time to review and analyze discovery, confer with defendant, investigate
11 potential defenses, research and prepare pretrial motions, and prepare for trial. The Court
12 accordingly finds that a failure to grant a continuance would deny counsel, and any potential
13 future counsel, the reasonable time necessary for effective preparation, taking into account the
14 exercise of due diligence, within the meaning of 18 U.S.C. § 3161(h)(7)(B)(iv).

15 4. The Court finds that a failure to grant a continuance would likely result in a
16 miscarriage of justice, as set forth in 18 U.S.C. § 3161(h)(7)(B)(i).

17 5. The Court finds that the additional time requested between the current trial date of
18 July 11, 2022, and the proposed trial date of November 7, 2022, is a reasonable period of delay.
19 The Court finds that this additional time is necessary to provide defense counsel reasonable time
20 to prepare for trial, as defendant has requested more time to prepare for trial, to continue to
21 investigate the matter, to gather evidence material to the defense, and to consider possible
22 defenses. The additional time requested between the current trial date and the new trial date is
23 necessary to provide counsel for the defendant the reasonable time necessary to prepare for trial,
24 considering all of the facts set forth above.

25 6. The Court further finds that this continuance would serve the ends of justice, and
26 that these factors outweigh the best interests of the public and defendant in a speedier trial,
27 within the meaning of 18 U.S.C. § 3161(h)(7)(A).

28 ORDER GRANTING MOTION TO CONTINUE
TRIAL AND SUPERVISED RELEASE
HEARING - 2

IT IS FURTHER ORDERED that the period of time from the current trial date of July 11, 2022, up to and including the new trial date, shall be excludable time pursuant to the Speedy Trial Act, 18 U.S.C. § 3161, *et seq.* The period of delay attributable to this filing and granting of this motion is excluded for speedy trial purposes pursuant to 18 U.S.C. §§ 3161(h)(1)(D), (h)(7)(A), and (h)(7)(B);

DATED this 18th day of May, 2022.

ORDER GRANTING MOTION TO CONTINUE
TRIAL AND SUPERVISED RELEASE
HEARING - 3